

1-1 By: Paddie (Senate Sponsor - Birdwell, Fallon) H.B. No. 3557
 1-2 (In the Senate - Received from the House May 7, 2019;
 1-3 May 8, 2019, read first time and referred to Committee on Natural
 1-4 Resources & Economic Development; May 17, 2019, reported
 1-5 adversely, with favorable Committee Substitute by the following
 1-6 vote: Yeas 10, Nays 1; May 17, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10		X		
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			

1-20 COMMITTEE SUBSTITUTE FOR H.B. No. 3557 By: Birdwell

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to civil and criminal liability for engaging in certain
 1-24 conduct involving a critical infrastructure facility; creating
 1-25 criminal offenses.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. This Act shall be known as the Critical
 1-28 Infrastructure Protection Act.

1-29 SECTION 2. Subtitle B, Title 4, Government Code, is amended
 1-30 by adding Chapter 424 to read as follows:

1-31 CHAPTER 424. PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES

1-32 SUBCHAPTER A. GENERAL PROVISIONS

1-33 Sec. 424.001. DEFINITION. In this chapter, "critical
 1-34 infrastructure facility" has the meaning assigned by Section
 1-35 423.0045(a)(1-a) and also includes:

1-36 (1) any pipeline transporting oil or gas or the
 1-37 products or constituents of oil or gas; and

1-38 (2) a facility or pipeline described by this section
 1-39 that is under construction and all equipment and appurtenances used
 1-40 during that construction.

1-41 SUBCHAPTER B. CRIMINAL LIABILITY

1-42 Sec. 424.051. OFFENSE: DAMAGING OR DESTROYING CRITICAL
 1-43 INFRASTRUCTURE FACILITY. (a) A person commits an offense if,
 1-44 without the effective consent of the owner, the person enters or
 1-45 remains on or in a critical infrastructure facility and
 1-46 intentionally or knowingly damages or destroys the facility or
 1-47 impairs or interrupts the operation of the facility.

1-48 (b) An offense under this section is a felony of the third
 1-49 degree.

1-50 (c) If conduct constituting an offense under this section
 1-51 also constitutes an offense under another law, the actor may be
 1-52 prosecuted under this section, the other law, or both.

1-53 Sec. 424.052. OFFENSE: INTENT TO DAMAGE OR DESTROY
 1-54 CRITICAL INFRASTRUCTURE FACILITY. (a) A person commits an offense
 1-55 if, without the effective consent of the owner, the person enters or
 1-56 remains on or in a critical infrastructure facility with the intent
 1-57 to damage or destroy the facility or impair or interrupt the
 1-58 operation of the facility.

1-59 (b) An offense under this section is a state jail felony.

1-60 (c) If conduct constituting an offense under this section

2-1 also constitutes an offense under another law, the actor may be
 2-2 prosecuted under this section, the other law, or both.

2-3 Sec. 424.053. PUNISHMENT FOR CORPORATIONS AND
 2-4 ASSOCIATIONS. Notwithstanding Section 12.51, Penal Code, a court
 2-5 shall sentence a corporation or association adjudged guilty of an
 2-6 offense under this subchapter to pay a fine not to exceed \$500,000.

2-7 Sec. 424.054. RESTITUTION. If a defendant is convicted of
 2-8 an offense under this subchapter and the offense results in damage
 2-9 to or destruction of property, a court may, in accordance with
 2-10 Article 42.037, Code of Criminal Procedure, order the defendant to
 2-11 make restitution to the owner of the damaged or destroyed property,
 2-12 or the owner's designee, in an amount equal to the value of the
 2-13 property on the date of the damage or destruction.

2-14 SUBCHAPTER C. CIVIL LIABILITY

2-15 Sec. 424.101. CIVIL LIABILITY FOR DAMAGE TO CRITICAL
 2-16 INFRASTRUCTURE FACILITY. (a) A defendant who engages in conduct
 2-17 constituting an offense under Section 424.051 or 424.052 is liable
 2-18 to the property owner, as provided by this subchapter, for damages
 2-19 arising from that conduct.

2-20 (b) It is not a defense to liability under this section that
 2-21 a defendant has been acquitted or has not been prosecuted or
 2-22 convicted under Section 424.051 or 424.052, or has been convicted
 2-23 of a different offense or of a different type or class of offense,
 2-24 for the conduct that is alleged to give rise to liability under this
 2-25 section.

2-26 Sec. 424.102. CERTAIN ADDITIONAL LIABILITY. In addition to
 2-27 any liability under Section 424.101, an organization that, acting
 2-28 through an officer, director, or other person serving in a
 2-29 managerial capacity, knowingly compensates a person for engaging in
 2-30 conduct occurring on the premises of a critical infrastructure
 2-31 facility is liable to the property owner, as provided by this
 2-32 subchapter, for damages arising from the conduct if the conduct
 2-33 constituted an offense under Section 424.051 or 424.052.

2-34 Sec. 424.103. DAMAGES. (a) A claimant who prevails in a
 2-35 suit under this subchapter shall be awarded:

- 2-36 (1) actual damages; and
- 2-37 (2) court costs.

2-38 (b) In addition to an award under Subsection (a), a claimant
 2-39 who prevails in a suit under this subchapter may recover exemplary
 2-40 damages.

2-41 Sec. 424.104. CAUSE OF ACTION CUMULATIVE. The cause of
 2-42 action created by this subchapter is cumulative of any other remedy
 2-43 provided by common law or statute.

2-44 Sec. 424.105. NONAPPLICABILITY. The following provisions
 2-45 of the Civil Practice and Remedies Code do not apply to a cause of
 2-46 action arising under this subchapter:

- 2-47 (1) Chapter 27; and
- 2-48 (2) Section 41.008.

2-49 SECTION 3. Section 423.0045(a)(1), Government Code, as
 2-50 amended by Chapters 824 (H.B. 1643) and 1010 (H.B. 1424), Acts of
 2-51 the 85th Legislature, Regular Session, 2017, is reenacted to read
 2-52 as follows:

- 2-53 (1) "Correctional facility" means:
 - 2-54 (A) a confinement facility operated by or under
 - 2-55 contract with any division of the Texas Department of Criminal
 - 2-56 Justice;
 - 2-57 (B) a municipal or county jail;
 - 2-58 (C) a confinement facility operated by or under
 - 2-59 contract with the Federal Bureau of Prisons; or
 - 2-60 (D) a secure correctional facility or secure
 - 2-61 detention facility, as defined by Section 51.02, Family Code.

2-62 SECTION 4. Section 423.0045(a)(1-a), Government Code, as
 2-63 added by Chapter 1010 (H.B. 1424), Acts of the 85th Legislature,
 2-64 Regular Session, 2017, is reenacted to conform to the changes made
 2-65 to Section 423.0045(a)(1), Government Code, by Chapter 824 (H.B.
 2-66 1643), Acts of the 85th Legislature, Regular Session, 2017, to read
 2-67 as follows:

- 2-68 (1-a) "Critical infrastructure facility" means:
 - 2-69 (A) one of the following, if completely enclosed

3-1 by a fence or other physical barrier that is obviously designed to
3-2 exclude intruders, or if clearly marked with a sign or signs that
3-3 are posted on the property, are reasonably likely to come to the
3-4 attention of intruders, and indicate that entry is forbidden:
3-5 (i) a petroleum or alumina refinery;
3-6 (ii) an electrical power generating
3-7 facility, substation, switching station, or electrical control
3-8 center;
3-9 (iii) a chemical, polymer, or rubber
3-10 manufacturing facility;
3-11 (iv) a water intake structure, water
3-12 treatment facility, wastewater treatment plant, or pump station;
3-13 (v) a natural gas compressor station;
3-14 (vi) a liquid natural gas terminal or
3-15 storage facility;
3-16 (vii) a telecommunications central
3-17 switching office or any structure used as part of a system to
3-18 provide wired or wireless telecommunications services;
3-19 (viii) a port, railroad switching yard,
3-20 trucking terminal, or other freight transportation facility;
3-21 (ix) a gas processing plant, including a
3-22 plant used in the processing, treatment, or fractionation of
3-23 natural gas;
3-24 (x) a transmission facility used by a
3-25 federally licensed radio or television station;
3-26 (xi) a steelmaking facility that uses an
3-27 electric arc furnace to make steel;
3-28 (xii) a dam that is classified as a high
3-29 hazard by the Texas Commission on Environmental Quality; or
3-30 (xiii) a concentrated animal feeding
3-31 operation, as defined by Section 26.048, Water Code; or
3-32 (B) if enclosed by a fence or other physical
3-33 barrier obviously designed to exclude intruders:
3-34 (i) any portion of an aboveground oil, gas,
3-35 or chemical pipeline;
3-36 (ii) an oil or gas drilling site;
3-37 (iii) a group of tanks used to store crude
3-38 oil, such as a tank battery;
3-39 (iv) an oil, gas, or chemical production
3-40 facility;
3-41 (v) an oil or gas wellhead; or
3-42 (vi) any oil and gas facility that has an
3-43 active flare.

3-44 SECTION 5. The change in law made by this Act in adding
3-45 Subchapter C, Chapter 424, Government Code, applies only to a cause
3-46 of action that accrues on or after the effective date of this Act. A
3-47 cause of action that accrues before the effective date of this Act
3-48 is governed by the law in effect immediately before that date, and
3-49 that law is continued in effect for that purpose.

3-50 SECTION 6. To the extent of any conflict, this Act prevails
3-51 over another Act of the 86th Legislature, Regular Session, 2019,
3-52 relating to nonsubstantive additions to and corrections in enacted
3-53 codes.

3-54 SECTION 7. This Act takes effect immediately if it receives
3-55 a vote of two-thirds of all the members elected to each house, as
3-56 provided by Section 39, Article III, Texas Constitution. If this
3-57 Act does not receive the vote necessary for immediate effect, this
3-58 Act takes effect September 1, 2019.

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